

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION**

UNITED STATES OF AMERICA

v.

STEVEN F. RIGGS, II,

Defendant.

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Case No. 2:10CR00002-004

OPINION AND ORDER

By: James P. Jones
United States District Judge

Steven F. Riggs, II, Pro Se Defendant.

The defendant, proceeding pro se, has filed a motion entitled “Motion to Amend Sentencing Order.” On September 27, 2011, the defendant was sentenced by this court to 210 months’ imprisonment for conspiracy to distribute a controlled substance. The court directed that his term of imprisonment run consecutively with any previous state or federal sentence.

In his motion, the defendant requests that the court amend his sentence to run it concurrently with a previously-served 18-month state sentence imposed in Scott County, Virginia. He relies on U.S. Sentencing Guideline Manual (“USSG”) § 5G1.3(b), which directs a sentencing adjustment where a defendant will not be credited by the Bureau of Prisons for time spent in custody for an undischarged term of imprisonment resulting from relevant conduct.

Even if USSG § 5G1.3(b) could have been applied at the time of his sentencing, this court cannot now revise his sentence to give him credit for the time requested. The misapplication of the sentencing guidelines does not normally amount to a miscarriage of justice that can be remedied on collateral review, years after the original sentence. *United States v. Mikalajunas*, 186 F.3d 490, 496 (4th Cir. 1999).

For these reasons, the Motion to Amend Sentencing Order (ECF NO. 579) is DENIED.

It is so **ORDERED**.

ENTER: September 6, 2016

/s/ James P. Jones
United States District Judge